

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO.: 5:07-CV-00437-D

SHARON B. IGLESIAS,

Plaintiff,

v.

JOHN WOLFORD, Chief of Police of Oxford,
N.C., in his official and individual capacities;
THOMAS MARROW, City Manager of
Oxford, N.C., in his official and individual
capacities; DON JENKINS, Human Resources
Manager for the City of Oxford, N.C., in his
official and individual capacities, and, the
CITY OF OXFORD, N.C.,

Defendants.

DEFENDANTS' PARTIAL
MOTION TO DISMISS

The Defendants, by and through their counsel of record, respectfully move the Court to dismiss certain of the Plaintiff's claims against them pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Defendants' respectfully contend that the following claims should be dismissed for the following reasons, among others:

1. Plaintiff's "conspiracy" claim should be dismissed because there is no plurality of actors.
2. Plaintiff's claims under the North Carolina Constitution fail because she has adequate state law remedies and because claims cannot be asserted against individuals under the North Carolina Constitution.
3. Plaintiff's wrongful discharge claims against the individual Defendants should be dismissed because they were not Plaintiff's "employer" for the purposes of a wrongful discharge claim.

4. Plaintiff's claims for punitive damages against the City (and the nominal Defendants in their official capacities) should be dismissed because municipalities are absolutely immune from punitive damages.

Accordingly, the Defendants' Motion to Dismiss should be ALLOWED and the foregoing claims should be DISMISSED WITH PREJUDICE.

Respectfully submitted, this the 21st day of November, 2007.

CRANFILL SUMNER & HARTZOG LLP

/s/ M. Robin Davis

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Attorneys for Defendants

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CITY OF OXFORD, N.C.,)
)
Defendants.)

CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2007, I electronically filed the foregoing *Defendants' Motion to Dismiss* with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Charles E. Monteith, Jr.
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102 Pickering Place, #3-3
Cary, NC 27513
Attorney for Plaintiff

And I hereby certify that I have mailed the document to the following non CM/ECF participant:

Shelli Henderson Rice
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102 Pickering Place, #3-3
Cary, NC 27513
Attorney for Plaintiff

Respectfully submitted,

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